

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION**

THREE ZERO THREE CAPITAL)
PARTNERS, LLC, and 303 ENERGY)
TRADING ALLIANCE, LLC)

Plaintiff)

V.)

WILLIAM JAMISON, JR., STEPHEN)
HARPER, JEFFREY ONG and EVERGREEN)
ENERGY CAPITAL, LLC)

Defendants.)

No. 08 C 248

Judge Blanche M. Manning
Magistrate Judge Arlander Keys

DEFENDANTS' MOTION TO WITHDRAW DEFENDANT EVERGREEN ENERGY CAPITAL, LLC'S MOTION TO DISMISS COUNT II OF PLAINTIFFS' VERIFIED COMPLAINT AT LAW, DEFENDANT EVERGREEN ENERGY CAPITAL, LLC'S MOTION FOR SUMMARY JUDGMENT AS TO COUNT III OF PLAINTIFFS' VERIFIED COMPLAINT AT LAW, AND DEFENDANTS WILLIAM JAMISON, JR.'S, STEPHEN HARPER'S AND JEFFREY ONG'S MOTION TO DISMISS COUNTS I AND II OF PLAINTIFFS' VERIFIED COMPLAINT AT LAW

Defendants William Jamison, Jr., Stephen Harper, Jeffrey Ong and Evergreen Energy Capital, LLC (collectively “defendants”), by their undersigned attorneys, respectfully move this Court to withdraw Defendant Evergreen Energy Capital, LLC’s Motion to Dismiss Count II of Plaintiffs’ Verified Complaint at Law, Defendant Evergreen Energy Capital, LLC’s Motion for Summary Judgment as to Count III of Plaintiffs’ Verified Complaint at Law, and Defendants William Jamison, Jr.’s, Stephen Harper’s and Jeffrey Ong’s Motion to Dismiss Counts I and II of Plaintiffs’ Verified Complaint at Law and to strike the hearing date of January 24, 2008 as noticed for these motions. In support of this motion, Defendants state as follows:

1. On December 6, 2007, Plaintiffs filed their Verified Complaint at Law in the Circuit Court of Cook County, Illinois, County Department, Law Division, Case No. 2007 L 013635.

2. On January 11, 2008, Defendants filed a Notice of Removal with this Court in which they alleged, based on the information available to them at that time, that this Court had original jurisdiction of this matter pursuant to 28 U.S.C. § 1332 because there was complete diversity of citizenship between the parties and the amount in controversy exceeded the sum or value of \$75,000, exclusive of interest and costs.

3. On January 18, 2008, Defendants filed Defendant Evergreen Energy Capital, LLC's Motion to Dismiss Count II of Plaintiffs' Verified Complaint at Law, Defendant Evergreen Energy Capital, LLC's Motion for Summary Judgment as to Count III of Plaintiffs' Verified Complaint at Law, and Defendants William Jamison, Jr.'s, Stephen Harper's and Jeffrey Ong's Motion to Dismiss Counts I and II of Plaintiffs' Verified Complaint at Law. Defendants noticed these motions up for January 24, 2008 at 11:00 a.m. before the Honorable Blanche M. Manning.

4. On January 22, 2008, Plaintiffs filed their First Amended Complaint at Law.

5. As indicated in the Agreed Motion to Remand filed concurrently herewith, based upon the new information alleged in Plaintiffs First Amended Complaint at Law, diversity of citizenship does not exist between the parties at this time.

6. Accordingly, on January 22, 2008, the parties jointly moved this Court to enter an Order remanding this case to the Circuit Court of Cook County, Illinois, County Department, Law Division.

WHEREFORE, the parties respectfully move this Court to withdraw Defendant Evergreen Energy Capital, LLC's Motion to Dismiss Count II of Plaintiffs' Verified Complaint at Law, Defendant Evergreen Energy Capital, LLC's Motion for Summary Judgment as to Count III of Plaintiffs' Verified Complaint at Law, and Defendants William Jamison, Jr.'s, Stephen Harper's and Jeffrey Ong's Motion to Dismiss Counts I and II of Plaintiffs' Verified Complaint at Law and to strike the hearing date of January 24, 2008 as noticed for these motions.

Dated: January 23, 2008

Respectfully submitted,

WILLIAM JAMISON, JR., STEPHEN
HARPER, JEFFREY ONG, and
EVERGREEN ENERGY CAPITAL, LLC

/s/ Amy J. Carletti
One of their attorneys

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CERTIFICATE OF SERVICE

I, Amy J. Carletti, certify that service of the above instrument was accomplished pursuant to ECF upon counsel of record, all of whom are Filing Users according to the Court's General Order On Electronic Filing on this 22nd day of January, 2008.

/s/ Amy J. Carletti

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